POISONOUS FLY PAPERS.

Little things are sometimes of significance, when one comes to study them carefully. No one paid much attention to Fourth of July catastrophes until the *Journal A. M. A.* began to study the matter; and now it is different. Recently some one has begun to study the accidental casualties due to poisonous fly papers, and the *Journal of the Michigan State Medical Society* has the following item on the subject:

A year ago, in discussing this subject editorially, we gave a partial report of the cases of arsenical poisoning of children from accidentally consuming the contents of fly-destroying contrivances during the summer of 1914. It was gratifying to note the number of medical journals that reprinted our editorial or commented upon the subject. The discussion was evidently a timely one.

For the summer of 1915 we have been able to secure the reports of the following cases:

Month	No.	Fatal	Recovery Indicated	Recovery Doubtful
May	1	1		
June	2			2
July	5	2	2	1
August	14	5	8	1
Totals	22	8	10	4

These cases were reported by the daily press as occurring in the following states: Georgia, 1; Illinois, 6; Indiana, 2; Iowa, 2; Massachusetts, 2; Michigan, 2; Missouri, 1; Nebraska, 1; New York, 1; Oklahoma, 1; Ohio, 1; Pennsylvania, 2; a total of twenty-two cases. This report must necessarily be considered as very incomplete and but an indication of the possible extent of a wholly preventable danger.

We again point out the fact that the symtoms of arsenical poisoning are very similar to those of cholera infantum and that undoubtedly a number of the cases of cholera infantum that occurred were really cases of arsenical poisoning, and death, if occurring, was attributed to the fact. The cases reported were of children ranging in age from 1 to 6 years. These little patients are not old enough to tell what they have taken when questioned as to their illness, and unless they are seen consuming the fly poison the actual cause of their sickness or death is overlooked and the fatality ascribed to cholera infantum or to some other similar causes and the error in diagnosis goes undetected.

We repeat, arsenical fly-destroying devices are dangerous and should be abolished. Health officials should become aroused to prevent further loss of life from their source.

Our Michigan Legislature, this last session, passed a law regulating the sale of poisonous fly papers. Similar enactments should be secured and enforced in every state in the Union.

OBSTETRICS AND MALPRACTICE SUITS.

Of course it is not always possible to have a woman who is about to be confined placed in a properly equipped hospital where everything that may be needed is at hand—and *clean;* nor yet is it always possible to have the services of a thoroughly trained nurse at the time of the confinement. In a very large number of confinement cases the means of the patient will not permit luxuries of this sort, and therefore in many cases a "practical nurse" is all that the patient can provide for the assistance of the doctor. Very frequently the practical nurse is some old woman who has helped at confinements and therefore is thoroughly convinced of the fact that she knows it all. During the past year we have had four suits for damages for alleged malpractice in confinement cases, the basis of the allegation of negligence, on the part of the doctor, coming in every instance from uncalled-for comment on the case by the practical nurse or old woman in attendance. To be sure, we have won all of these suits, but even winning suits is an expensive proposition and annoying to the doctor who is sued.

In every confinement case where you are confronted with a situation of this kind—that is, a "practical nurse" or some old woman to assist—make it a point to be unusually careful and to preserve in your records ample notes of exactly what happened. Above all else, make sure that the placenta is carefully examined and in the presence of at least one other person. Do not think that all suits for damages for alleged negligence by the physician arise from cases of fractures; there is no range of human ailment which has not provided material for such a suit and obstetrics has furnished its full share.

OPERATIONS AND THE LAW.

It may not be amiss to emphasize, even though they have been touched upon before, some few of the points wherein it is essential that the surgeon know what the law requires of him. And first of all, remember that the law does not require anyone to treat or to operate upon a sick or injured person; the treating or operating is the creation of a voluntary contract entered into by the physician or surgeon. It then becomes his legal duty to live up to the letter of his contract and the law will inquire strictly into the matter of neglect. All operations fall naturally into three classes: Emergency; by consent, where there is no emergency; and trespass, where something is done without consent, there existing no emergency. In the first class there is great latitude and if what is done is done in good faith and to the best of one's knowledge and ability, that is sufficient. It has even been held that one not a physician or surgeon, in the face of an emergency when it is probable that a life will be lost if some immediate operation is not done, may so operate and if he does the best that he can, he is not held in manslaughter if the party dies. Where the patient is unconscious and there are no relatives at hand or none can be reached without a dangerous delay, it is quite proper to do anything that will

have a tendency to preserve life, even without consent. But in all such cases it is the wise thing to have a consultation, if it be possible, and to keep careful records of the diagnosis, opinions before operation, and what was done and found. In all such operations without consent, the operator should use extraordinary care and should not depart in any way from what is recognized as the proper and general procedure; the law does not regard operative experiments without consent, with much favor. No operation not of emergency should ever be done without a full understanding between the physician and the patient, or the parents if the patient be a minor, and it is wise to have this understanding extend to and include other relatives of the patient, if such there be. If possible, without forcing the issue, it is well to have this consent in writing. Nowadays, few if any surgeons undertake a major operation with any restrictions implied; that is, they have the consent of the patient to do whatever may seem to be necessary after the operation has been begun; this is the only safe course. There should never be the slightest chance of misunderstanding as to this general consent to do what is necessary; if it is less than this, if the consent is qualified and when the operation is in progress some condition is found needing attention that was not specified, the operation should stop and the patient be allowed to become conscious before anything further is done. Failure to follow this course has resulted in heavy judgments against surgeons. When the right ear was to have been operated upon, and under the anesthetic the left ear was found to be in worse case and was the ear of operative attack, it was held a trespass on the person of the patient and a heavy verdict given. So, where in an operation to remove a foreign body from the foot, a sesamoid bone was removed without previous consent, it was held a trespass and a judgment given to the plaintiff. It is needless to say that an abortion should never be performed except after consultation and in the presence and with the assistance of another physician.

REPORTS ARE TO BE MADE, NOT ASSUMED.

When the law requires that a physician shall report certain things, it means that he shall actually make such a report and not suppose that it will be assumed from some other fact. Most people are not mind-readers, and those who are, are busy. A report is a report and must be made in writing to the proper person; ignorance of the law is no excuse. If a man chooses to practice medicine it is understood that he will familiarize himself with the duties which the law has placed upon him. In this connection comes a timely "news letter" from the State Board of Health:

> A physician of Contra Costa County who was summoned to appear before the California State Board of Health at its last meeting to explain his failure to report a case of typhoid fever in a dairyman, stated in his defense that he had sent a specimen of blood to the State Hygienic Laboratory for examination, and that he considered this equivalent to reporting. He was warned by the Board that formal notification to the health officer of cases of communicable disease is necessary, in order that the provisions of the law may be complied with. The Board is considering other cases of failure to report communicable diseases, and is determined to secure such reports from all physicians in the State.
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> Birth certificates will not be accepted for filing after one year from date of birth, according to a decision of the State Board of Health. In some cases, attempts have been made to file certificates several years after date of birth. The law does not authorize the filing of birth certificates after a reasonable length of time has expired, and the Board has set the period of one year as reasonable.
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> In reply to many inquiries concerning the matter of compelling dangerous syphilitic patients to take treatment, the Board has replied that it has no power under the law to compel treatment of any kind, but it may isolate persons who are dangerous to the public health.

HOSPITAL LIABILITIES.

The liability of a hospital for the negligent or careless acts of its employees or staff depends upon the character of the hospital. All state institutions, hospitals, asylums, and the like, are expressly without liability for torts due to the negligence or lack of skill or judgment of their employees; and the rule holds as to county or city and county institutions, strictly such. Nor is there liability in such institutions for insufficient or poor food. Private hospitals are of two sorts; charitable institutions and those for gain; railroad hospitals, though not for gain, are held not to be charitable institutions. The courts in the various states are not absolutely agreed as to the non-liability of charity hospitals, but the great weight of opinion is that they are not to be held in damages for the negligence of their employees or staff; in this state that is the rule. The argument is that such hospitals are supported by funds given for charity and that such gifts may not be diverted from that purpose to the payment of damages to individuals who may suffer from negligence, etc. With hospitals for gain or profit, however, the rule is quite otherwise; they are liable for the torts or wrongs of their employees due to negligence, carelessness, lack of skill and the like. The trend of all recent decisions is that such hospitals, even though they may have exercised due care in the hiring of servants, are responsible for the negligent acts of such servants. Thus a hospital was held in damages for the death of a typhoid patient who jumped from the open window in the absence of the nurse from the room for a brief space; another was held for the burning of the patient by a hot water bag placed in the bed by the nurse; and another for mistakenly giving the patient a solution of bichloride of mercury. But it must be well proved that the act complained of was the act or failure to perform the act that caused the wrong. Such is the general status of hospitals in their legal relation to the public, and it seems reasonable.